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## MAXIMUM WAGE-LAWS FOR PRIESTS AFTER THE BLACK DEATH, 1348-1381<sup>1</sup>

FROM lists of ordinations and of institutions to benefices,<sup>2</sup> it has been calculated that about 5000 of the beneficed clergy in England died in the great plague—half of the total number;<sup>3</sup> if the proportion of beneficed to unbeficed clergy (including the regulars under the latter head) is reckoned as about one to four, the number of deaths among the whole body of clergy would be, roughly speaking, 25,000.<sup>4</sup> The estimate of 2,500,000, or half the existing population, as the mortality for the whole nation,<sup>5</sup> depends on the assumption that the proportion of clergy to laity is one to a hundred<sup>6</sup> and that the death-rate is the same for both estates,<sup>7</sup> including in each case a larger number of poor than of rich.<sup>8</sup> That there was practically no recovery in numbers by the time of the Great Revolt is due in part at least to the serious outbreaks of pestilence during the intervening years, the plagues of 1361, 1368-1369, and 1375 being especially severe.<sup>9</sup>

Whatever divergence there may be in the views held by modern

<sup>1</sup> A paper read at the meeting of the American Historical Association in Chicago, December 29, 1914.

<sup>2</sup> They are preserved in the Episcopal Registers and on the Patent Rolls and together with the figures in monastic chronicles are the only precise data thus far analyzed for the mortality in England: Capes, *History of the English Church in the Fourteenth and Fifteenth Centuries*, p. 74. The pioneer work in the analysis of these lists was performed years ago by Jessopp for East Anglia in *The Coming of the Friars and other Historic Essays* and has since been confirmed by the wider researches of Gasquet in *The Great Pestilence*, lately republished as *The Black Death*, and also by the investigations of the contributors to the *Victoria County History*. No calculations can be considered as final, however, until there have been statistical studies of the great mass of secular records now available, such as manorial court rolls, inquisitions post mortem, etc.

<sup>3</sup> Gasquet, *op. cit.*, p. 236.

<sup>4</sup> *Ibid.*, pp. 86-87, 156, 181, 203, foot-note, 236-237. For other calculations, cf. Jessopp, quoted by Gasquet, p. 87; Cutts, *Parish Priests and their People in the Middle Ages in England*, pp. 389-390; Capes, 265; Stubbs, *Constitutional History* (fifth ed.), III. 379, 384.

<sup>5</sup> For the controversy on this point, see Putnam, *Enforcement of the Statutes of Labourers*, p. 2, note 1, and Gasquet, pp. 225-227, 237-238.

<sup>6</sup> Gasquet, *ubi supra*; for other estimates, see *ibid.*, pp. 192, 238; Cutts, p. 390; Capes, p. 258.

<sup>7</sup> Gasquet, pp. 86, 192, 237.

<sup>8</sup> *Ibid.*, p. 227; Creighton, *History of Epidemics*, I. 124.

<sup>9</sup> Gasquet, pp. 225-226; Creighton, I. 203, 215-217.

scholars as to the permanent effects of the Black Death on the life of the English people,<sup>10</sup> there is a consensus of opinion that its immediate effect was an appalling scarcity of manual laborers, with a consequent rise in wages, and an equally appalling scarcity of priests. On the first point I do not need to dwell;<sup>11</sup> on the second, I wish merely to refer to the fairly overwhelming evidence contained in ecclesiastical sources, such as episcopal and papal registers;<sup>12</sup> there are often no priests to perform divine services, to chant masses, or to administer the sacraments.<sup>13</sup> To meet the grave situation, plenary indulgence was granted by the pope to all who died in the true faith,<sup>14</sup> confession to laymen, even to women, was permitted, and it was said that if no priest could be found for the rite of extreme unction "faith must suffice".<sup>15</sup> Innumerable dispensations were issued sanctioning the ordination of candidates who did not possess the usual qualifications of age, of legitimate and free birth, of education, etc.<sup>16</sup> The demoralization of the church was inevitable and has often been described;<sup>17</sup> here I am concerned with but a narrow phase of the whole situation, namely the effect of the plague on the unbeneficed, secular clergy, who received their incomes in the form of a fixed stipend, usually by the year.

Unbeneficed, stipendiary priests<sup>18</sup> may be parish chaplains, with

<sup>10</sup> The opinions range all the way from the view that every change occurring during the next two centuries is due to the plague to the more fashionable modern theory that denies any lasting effect to a cataclysm. Stubbs, *op. cit.* (fourth ed.), II. 419; Gasquet, pp. xxi–xxiv, 227–236, 251–253; Cunningham, *Growth of English Industry and Commerce* (fifth ed.), I. 370–379; Rogers, *History of Agriculture and Prices*, I. 8, 10, 60, 261–267, 292.

<sup>11</sup> For references to contemporary and modern views, see Putnam, p. 2.

<sup>12</sup> Of the chroniclers, Knighton gives the fullest description (Rolls Series), II. 63; cf. also Tait's edition of *Chronica Johannis de Reading et Anonymi Cantuariensis*, pp. 109–110, 193.

<sup>13</sup> Gasquet, pp. 118–119, 121, 171, 178; Capes, p. 75.

<sup>14</sup> Gasquet, p. 127.

<sup>15</sup> *Ibid.*, pp. 92–95, quoted from the register of the Bishop of Bath and Wells. For other measures, see Gasquet, pp. 125–126; *The Register of the Diocese of Worcester during the Vacancy of the See* (ed. J. W. Willis-Bund), pp. 241–242; Register G (entitled *Sede Vacante*) of the Monastery of Christ Church, Canterbury, ff. 29, 36.

<sup>16</sup> *Calendars of Papal Letters and of Papal Petitions, passim*; Gasquet, pp. 238–250; Capes, p. 75.

<sup>17</sup> Gasquet, pp. xxi–xxv, 250–255; Capes, pp. 75–83. For contemporary comment, see Gower's *Vox Clamantis*, and *The Vision of William concerning Piers Plowman*.

<sup>18</sup> On the difficult question of terminology Professor Lunt of Cornell has made many valuable suggestions, but he is not responsible for possible errors in my conclusions. I follow Capes (p. 265) in using "stipendiary" in its literal

cure of souls, acting in the place of absentee rectors, or as assistants of resident rectors or of perpetual vicars,<sup>19</sup> in some cases taking charge of chapels at ease;<sup>20</sup> or they may be the private chaplains of great men, lay or ecclesiastical, sometimes considered much as hired servants;<sup>21</sup> finally, they may be chantry priests, their sole function often consisting in singing masses<sup>22</sup>—in the case of a private chantry, for the souls of the founder or of his family and friends,<sup>23</sup> in the case of a “co-operative” chantry, for the souls of the members of the fraternity.<sup>24</sup> In some instances the stipendiary chantry priest is bound by his contract to take part in the divine services, to visit the poor and the sick, or to teach grammar schools.<sup>25</sup>

The rapid increase of chantries and of private chapels during the fourteenth century<sup>26</sup> led to a growing demand for stipendiary priests at just the time when the supply was being diminished both by the plague and by the promotion of many of them to fill the gaps in the ranks of rectors and vicars.<sup>27</sup> Apart from this emergency, it is to be emphasized that the priests without benefices, in contradistinction to the more aristocratic rectors and vicars, were usually appointed from the middle and lower classes<sup>28</sup> and that many of them

sense, and throughout my discussion I am referring to those stipendiary priests, whether chaplains or cantarists, who do not hold benefices. (See Gower's usage, note 159, *infra*. For beneficed chantry priests, see Register Stretton, pp. 106–107, referred to in note 122, *infra*.) According to the language of the ecclesiastical measures and according to Lyndwood's interpretation (*Provinciale*, pt. I., p. 238, note s), the canonical maximum wage laws affect only the unbenedicited, stipendiary clergy. There is, however, some doubt as to the technical definition of “benefice” in spite of Lyndwood (*ibid.*) and there is serious disagreement among modern writers as to the definition of “stipendiary”. See Gasquet, *Parish Life in Mediaeval England*, p. 98; Stubbs, III. 379; Richardson, “The Parish Clergy of the Thirteenth and Fourteenth Century”, in *Transactions of the Royal Hist. Society*, third series, VI. 115.

<sup>19</sup> Cutts, pp. 106, 484; Stubbs, *ubi supra*. Gasquet designates these as curates, *Parish Life*, pp. 92–93.

<sup>20</sup> Cutts, p. 106; Gasquet, *op. cit.*, p. 99.

<sup>21</sup> Cutts, p. 484; Gasquet, *ubi supra*; Abram, *English Life and Manners in the Later Middle Ages*, p. 52.

<sup>22</sup> Stubbs considers that a large proportion of candidates were ordained on the title of chaplaincies and that the majority had neither cure of souls nor duty of preaching, their spiritual work consisting simply in saying masses for the dead. *Op. cit.*, III. 379, 384.

<sup>23</sup> Capes, p. 271.

<sup>24</sup> Ashley, *English Economic History*, II. 138; Unwin, *The Gilds and Companies of London*, ch. IX.

<sup>25</sup> Capes, pp. 271–272; Gasquet maintains that chantry priests are not usually mere cantarists, *Parish Life*, pp. 95–96.

<sup>26</sup> Capes, p. 271; Unwin, p. 112; *Calendars of Papal Letters and Papal Petitions*, *passim*; for the increased demand for portable altars, cf. *Cal. Papal Letters*, vol. III., preface, p. vi.

<sup>27</sup> *Calendars of Patent Rolls*, *passim*.

<sup>28</sup> Cutts, pp. 129, 484; Stubbs, *op. cit.*, III. 379–380.

had no representation in convocation.<sup>29</sup> In a very real sense, therefore, the gulf between them and the beneficed clergy, whose employees they normally were,<sup>30</sup> resembles the gulf between the laborers and the governing classes. Inevitably there occurs exactly parallel to the rise of laborers' wages as a result of the plague, an enormous rise in the salaries of unbeneficed priests. To check this rise, the great ecclesiasts enact canons that present close analogies to the secular labor laws; clerical strikes are thus met by clerical statutes of laborers.<sup>31</sup>

The purpose of this paper is to investigate within the separate dioceses as units the actual workings of the administrative machinery of the Church as applied to the economic crisis of 1348–1381. As far as I know, no such administrative analysis has thus far been made,<sup>32</sup> partly because so often the county rather than the diocese has been the unit of investigation. A preliminary word as to sources will reveal the extent of my study. Aside from the relatively slight information contained in the rolls of Parliament, statutes, patent rolls, etc., and from the scanty notices to be gleaned from the chroniclers, the sources are strictly ecclesiastical: the mandates of archbishops and bishops, the constitutions of diocesan and provincial synods, the acts of consistory courts, judicial proceedings before archdeacons<sup>33</sup> (the last two classes of records only rarely preserved for this date),<sup>34</sup> and, finally, the records of deans and chapters.<sup>35</sup> For the period under discussion much of this eccl-

<sup>29</sup> Stubbs, *op. cit.*, III. pp. 48, 379.

<sup>30</sup> For the grievances of the beneficed clergy see Capes, pp. 265–266. Laymen might also be the employers of stipendiary priests.

<sup>31</sup> Tout in his life of Islip in the *Dict. Nat. Biography* writes of the canon of 1350 as "a sort of spiritual counterpart to the Statute of Labourers".

<sup>32</sup> Modern scholars have of course made many references to the clerical wage-laws; cf. e. g., Tout's excellent summary in his article quoted *supra*, note 31; but in most cases the references are curiously incomplete and therefore misleading; cf. Richardson, pp. 115–117; *Victoria County History, Gloucester*, II. 19–20; *Dorset*, II. 22; Coulton, *Chaucer and his England*, p. 305; article on Islip in the *Dict. Eng. Church History* (ed. by Ollard and Crosse).

<sup>33</sup> Stubbs's admirable account of the whole series of church courts is found in "The Report of the Commissioners appointed to inquire into the Constitution and Working of the Ecclesiastical Courts", *Parl. Papers*, 1883, vol. XXIV.

<sup>34</sup> A few instances of their preservation have come to my notice; there is a register of the Ely Consistory Court for the years 1375–1381, see *Ely Episcopal Records* (ed. A. Gibbons), p. 79; Reg. Sheppey (1353–1360) contains acts of the Rochester Consistory Court, ff. 265–280. Judicial proceedings before archdeacons are sometimes mentioned in churchwardens' accounts; cf., e. g., a reference for the year 1370 in the parish of St. Michael, Bath, in Somersetshire Arch. and Nat. Hist. Soc. *Proceedings*, XXVI. xv, 9. For churchwardens' accounts in general, see Gross, *Sources of English History* (first ed.), pp. 402–403. They ought to contain reports to archdeacons of offenses committed by chaplains.

<sup>35</sup> See index to Hist. MSS. Comm. *Reports*, summarized by Gross, pp. 536–539.

siastical material is still in manuscript,<sup>36</sup> a large portion of it being enrolled by the bishops in their registers.<sup>37</sup> Limitations of time forced me to restrict myself in the main to these registers<sup>38</sup> and to the additional evidence that has found its way into such printed works as Lyndwood's *Provinciale*<sup>39</sup> and Wilkins's *Concilia*.<sup>40</sup> For the years 1348-1381 forty-three registers are in existence for the seventeen dioceses of England;<sup>41</sup> of these, twelve are printed either in full or in abstract,<sup>42</sup> the province of Canterbury having fared far better than that of York.<sup>43</sup> In my quest of manuscript material during the year 1912-1913,<sup>44</sup> the difficulties of securing permission at Durham,<sup>45</sup> York, and Worcester proved insurmountable in the time at my disposal, so that I am obliged to confine myself to the province of Canterbury, omitting for the present the seven registers of the important diocese of Worcester.

<sup>36</sup> In some cases in the British Museum but more frequently in local ecclesiastical archives.

<sup>37</sup> For an account of the contents of registers, see Stubbs, *Registrum Sacrum Anglicanum*, p. vii.

<sup>38</sup> Both manuscript and printed.

<sup>39</sup> Edition of 1679, Oxford. On the contents and value of this work, completed in 1430, see Maitland, *Roman Canon Law in the Church of England*, and Ogle's bitter attack on Maitland in *The Canon Law in Mediaeval England*.

<sup>40</sup> Edition of 1737 (London, 4 vols.). Spelman's collection has been superseded by that of Wilkins while the various other works dealing with church history by Hody, Johnson, Joyce, Lathbury, Wake, etc., are frequently controversial in character and contain very little on my subject.

<sup>41</sup> There are no Chichester registers earlier than 1397. The following registers are also missing: Stratford, Northburgh, and Courtenay for London; Barnet and Harewell for Bath and Wells; Bradwardine for Canterbury; Langham and Barnet for Ely; Brinton for Rochester. In Grandisson's register for Exeter, folios are wanting for the years 1362-1369; in Kirkby's register for Carlisle there are no entries later than 1347. To complete the history of a see all *sede vacante* registers should be examined.

<sup>42</sup> The Hereford registers of Lewis Charleton, William Courtenay, and John Gilbert have appeared since my stay in England; also the first part of the Rochester register of Hamo Hethe. It is to be hoped that Mr. R. C. Fowler will publish his bibliography of printed registers, a paper read at the International Historical Congress of 1913.

<sup>43</sup> Except for the selections printed long ago in the Rolls Series by Raine, *Historical Papers and Letters from the Northern Registers*, and for the documents in Wilkins, *Concilia*, the seven registers of the province of York for this period are still in manuscript.

<sup>44</sup> I wish to express my gratitude to Mr. R. C. Fowler and to Mr. C. Johnson of the Public Record Office and to the Reverend Claude Jenkins for his ready help at the library of Lambeth Palace and for his kindness in securing me access to other archives. My thanks are also due to the never-failing courtesy of the many custodians of episcopal registers. It is deeply to be regretted however that in several dioceses the working days and hours are narrowly restricted and that the fees charged make thorough research almost impossible.

<sup>45</sup> I was not permitted to examine the Act Books of the Prior and Convent, a necessary supplement to Bishop Hatfield's register.

For convenience, I will deal, first, with the ecclesiastical administration of the labor legislation enacted by the central government primarily for the laity; secondly, with the ecclesiastical administration of the corresponding measures enacted by ecclesiastical authority for the unbeneficed clergy, and finally, with some instances of conflict between the king's courts and the courts Christian.

### I. *The Secular Legislation.*

The ordinance of laborers was issued by king and council on June 18, 1349, in the form of a letter close to the sheriff of Kent.<sup>46</sup> At the end is a paragraph addressed to the Bishop of Winchester<sup>47</sup> bidding him publish it in his diocese and order his rectors, vicars, etc., to exhort their parishioners to labor and to obey the ordinance. Further, since stipendiary chaplains are refusing to serve except at excessive salaries, the bishop is to compel them to accept the customary rates, on pain of suspension and interdict. Similar instructions are directed to all bishops and to the guardian of the spiritualities of the Archbishop of Canterbury.<sup>48</sup>

The document is enrolled on the registers of Bath and Wells, Exeter,<sup>49</sup> Hereford, Rochester,<sup>50</sup> and Winchester.<sup>51</sup> Bishop Trilleck sends a copy to the officials of his two archdeacons and to the Dean of Hereford Cathedral. The instructions to the latter may be cited as typical: the dean is to proclaim the ordinance in the "vulgar tongue" in market towns and in other places according to his discretion, on holy days and feast days, and at fairs and markets when there would be the greatest assemblage of people. He is also to forbid his parishioners to give alms to able-bodied beggars and is to warn all stipendiary chaplains to demand only legal salaries.<sup>52</sup> The prompt proclamation of the ordinance in the diocese of Bath

<sup>46</sup> Putnam, app., pp. 8-12; *Statutes of the Realm*, I. 307-308, 23 Edw. III.

<sup>47</sup> William Edendon, bishop 1346-1366. For the dates of all the bishops referred to, see Stubbs, *Registrum Sacrum Anglicanum*.

<sup>48</sup> The prior and chapter of the monastery of Christ Church, see note 15, *supra*.

<sup>49</sup> *Register of John de Grandisson* (ed. F. C. Hingeston-Randolph), pt. I., pp. 69-71.

<sup>50</sup> Reg. Hethe, ff. 249-250: "Litera regis super ordinacionem servientium nolencium servire sine excessivo salario", followed by the bishop's letter to his archdeacon, "Litera super ordinacionem stipendiiorum capellanorum nolentium servire sine excessivo salario", July 1, 1349; cf. Wharton, *Anglia Sacra*, I. 375, and Gasquet, *The Black Death*, pp. 121-122.

<sup>51</sup> Reg. Edyndon, pt. II., f. 72: "Execucio brevis regis contra operarios et mendicantes ordinati", June 25, 1349.

<sup>52</sup> *Registrum Johannis de Trillek* (Canterbury and York Society), pp. 321-322. The editor is in error in indicating June 18, 1349, as the date of the bishop's mandate.

and Wells possibly explains the attack on Bishop Ralph during his visitation of the parish of Yeovil. "Certain sons of perdition, forming the community of the said town", armed with bows, arrows, iron bars, and stones, actually imprisoned the bishop and his servants for twenty-four hours in the church and rectory.<sup>53</sup>

Allowing for missing registers<sup>54</sup> and for vacancies of sees,<sup>55</sup> it appears that out of eleven possible cases, there is evidence for the action of five bishops in obedience to the royal mandate.<sup>56</sup>

## II. *The Ecclesiastical Measures.*

On May 28, 1350, shortly after Islip's accession to the primacy,<sup>57</sup> he issues, apparently on his sole authority,<sup>58</sup> the first general ecclesiastical mandate on clerical stipends, beginning: "Effrenata generis humani cupiditas".<sup>59</sup> On July 16, 1362, after the ravages of the second plague and after a decade of attempts to secure enforcement of the *Effrenata* in various dioceses, Islip "with bitterness of heart" addresses a complaint of neglect to Bishop Sudbury of London,<sup>60</sup> adding that "on the authority of some of his fellow-bishops and other magnates of the realm"<sup>61</sup> he has drawn up more specific instructions. This document, preserved apparently only on a London register and hitherto unnoticed by historians, is important as anticipating the main provisions of a more famous measure. In the

<sup>53</sup> *Register of Ralph of Shrewsbury* (Somerset Record Society, X.), pp. 593–595, 596–597.

<sup>54</sup> Chichester and London; Worcester must be excluded for the present.

<sup>55</sup> Canterbury. In Register G. f. 51 (see note 15, *supra*), under date of July 2, 1349, the prior of Christ Church complains to the official of the archdeacon of the scarcity of parish priests and bids him summon the cantarists to obey the ordinance.

<sup>56</sup> Of the statute of 1351 I have found no trace and only one instance of the enrollment of that of 1361, namely in Reg. Islip, f. 171.

<sup>57</sup> December 20, 1349.

<sup>58</sup> Maitland, *Roman Canon Law*, p. 32, quotes Lyndwood to show that provincial legislation proceeded from the archbishop rather than from the provincial council.

<sup>59</sup> "Archiepiscopi Cantuariensis mandatum ad compellendum capellanos ad deservendum ecclesiis curatis, et recipiendum moderata salario." Wilkins, III. 1–2. Except where Wilkins prints from British Museum transcripts, I give references to his volumes instead of to the manuscript registers.

<sup>60</sup> Reg. Sudbury, f. 143. I am indebted to the courtesy of Mr. R. C. Fowler for the opportunity of examining his transcripts of this register.

<sup>61</sup> "Nobis vero et nonnullis confratribus nostris aliisque majoribus de regno." The anomalous form of the assembly is puzzling; but see John of Reading's account of Islip's council in August, 1362, as responsible for a measure concerning priests' salaries (ed. Tait), pp. 153–154. Cf. also Walsingham, *Historia Anglicana* (Rolls Series), I. 297, and Hody, *History of English Councils and Convocations*, pt. III., p. 201.

Parliament that met at Westminster the following October,<sup>62</sup> the Commons complain of the exorbitant rates charged by chaplains and, ignoring the fact of the existing enactments, beg the king to request the archbishops and bishops to issue a constitution on the subject. The ecclesiasts present in Parliament accede to the king's request and answer in the same session that they have fixed legal rates for priests and have imposed penalties on ecclesiastical "givers" of excess as well as on "takers".<sup>63</sup> Their response is the second *Effrenata*, recorded in Islip's register as issued on November 9, "by the advice and consent of his brothers".<sup>64</sup> The last step is the acceptance of the *Effrenata* by the king and the enactment by him with the consent of the Magnates and of the Commons of a provision imposing penalties on lay infringers of the ecclesiastical measure.<sup>65</sup> There is constitutional significance in the sequence of events; if my account is correct, it disproves the theory accepted by most scholars, including Stubbs, that Parliament passed a statute fixing priests' salaries.<sup>66</sup> In other words, it is not a case of legislation of the laity for the clergy<sup>67</sup> but merely a striking example of harmonious co-operation between Church and State.

The last measure of my period was framed at the time of the Parliament that sat from October 20 to November 16, 1378, the second year of Richard II., meeting at the remote city of Gloucester for reasons important in the history of the Church.<sup>68</sup> On the very last day of the session, while the monastery of St. Peter was still

<sup>62</sup> The session lasted from a few days after October 13 to November 13; *Rot. Parl.*, II. 268–273; cf. Tait's note to John of Reading, p. 302.

<sup>63</sup> *Rot. Parl.*, II. 271; *Statutes of the Realm*, I. 373–374.

<sup>64</sup> F. 188: "Ordinacio sive statutum super salario a presbiteris percipiendo . . . Datum apud Lambeth V Idus Novembris", addressed to the Bishop of London. The document is wrongly dated by Wilkins, III. 50–51, and by Professor Tait, p. 301.

<sup>65</sup> "The king, accepting this ordinance with the assent of the magnates and commonalty, ordained". *Cal. Pat. Rolls*, 1364–1367, p. 67; *Rot. Parl.*, II. 271; *Statutes of the Realm*, I. 374, 36 Edw. III., st. 1, c. 8.

<sup>66</sup> Stubbs, *Const. Hist.*, III. 344: "In 1362 a statute fixed the wages of stipendiary chaplains." Cf. also Hunt, *The English Church in the Middle Ages*, p. 205: "The Bishops reported Islip's constitution, which was thus turned into a parliamentary statute."

<sup>67</sup> So classified by Stubbs, *ubi supra*, pp. 332–334. Islip's earlier mandate, quoted in note 82, *infra*, expressly commands the obedience of the laity. Wilkins, III. 2.

<sup>68</sup> *Rot. Parl.*, III. 32. The session did not actually begin till October 21, and is vividly described in *Historia et Cartularium Monasterii S. Petri Gloucestriae* (Rolls Series), I. 52–54. It was rumored that there was a plot to destroy the liberties of the Church which the Londoners would have frustrated but God saved the Church even at Gloucester, *ibid.* Cf. also *Continuation of Murimuth* (Eng. Hist. Soc.), pp. 234–235; Walsingham, *Historia Anglicana* (Rolls Series), I. 380.

full to overflowing with the vast concourse of Lords and of Commons, so that in the words of the chronicler, "it seemed more like a place for a fair than a religious house", Archbishop Sudbury summoned "his brothers and suffragans" to a certain chamber within the monastery for the express purpose of dealing with clerical salaries, and with their "advice and consent" formulated the third *Effrenata*<sup>69</sup> issued ten days later from Lambeth.<sup>70</sup> It is significant that Lyndwood states specifically that the penalties here decreed apply only to clerical offenders and that he has heard that the Gloucester Parliament enacted a statute to punish lay "givers" of excess salaries to priests.<sup>71</sup> Such a statute I have been unable to find.<sup>72</sup>

An analysis of the ecclesiastical laws just listed shows how greatly episcopal eloquence exceeds that of lay legislators. Instead of the Statute of Laborers' brief phrase, "the malice of servants", etc.,<sup>73</sup> there is a long rhetorical introduction to Islip's *Effrenata* of 1350, of which I give a summary: The unbridled covetousness of the human race would grow to such a height as to banish charity out of the world, if it were not repressed by justice. Many complaints and long experience reveal that the priests who have survived the plague, not realizing that they have been saved merely in order to serve God and his people and not in the least ashamed of setting a pernicious example to lay workmen, completely neglect

<sup>69</sup> Wilkins, III. 135-136: "Statutum super salariis presbyterorum factum per Simonem Sudbury Cantuariensem archiepiscopum. . . . Nos tamen, temporum qualitate attenta, de fratrum et suffraganeorum nostrorum XVI die mensis Novembris. . . . in quadam camera infra septa monasterii apostolorum Petri et Pauli Gloucestriae . . . propter hoc insimul congregatorum consilio et assensu super salariis sacerdotum parochialium, et annualium . . . de caetero percipientibus, ordinamus et statuimus." Wake's comment is as follows: "This was another Remarkable Transaction . . . That here was a long and a busy Parliament held, and no Convocation with it. And at the Close of this Parliament an Ecclesiastical Synod of Bishops only; no Presbyters, no Regular Prelates, called into a part of it." *State of the Church and Clergy*, p. 311.

<sup>70</sup> "Data apud Lambeth. . . . 6 Kal. Decembris, A. D. 1378", Wilkins, *ubi supra*. Lathbury, *Hist. of Convocation*, pp. 87-88, errs in stating that a synod to regulate clerical salaries was held at Lambeth in this year.

<sup>71</sup> Pt. I., pp. 240-241, note e: "Haec itaque Constitutio non arctat Laicos, saltem quoad poenam hic positam. Quare autem non fuit idem Statutum quoad Laicos, potest esse ratio; quia contra Laicos in eadem materia emanavit Statutum Regium etiam poenale, editum (ut audivi) in Parlimendo Glocestriae, ubi etiam facta fuit haec Constitutio 16 die Novembris anno domini \* 1368 (\* ms. Aeton 1378)."

<sup>72</sup> It is probable that the ecclesiasts had acted at the instigation of Parliament (*cf.* the petition of 1376, *infra*, p. 29). This was the session at which the ordinance of laborers was made a statute. *Statutes of the Realm*, II. 11, 2 R. II., st. 1, c. 8.

<sup>73</sup> Putnam, app., p. 12.

the cure of souls, preferring to celebrate annals and insisting on exorbitant salaries; unless their "irrational appetites" can be checked, many churches will remain empty. In order to limit their "insatiable desires", acceptance of a cure of souls is made compulsory and maximum annual salaries are somewhat vaguely named: for chaplains of parish churches, prebends, and chapels, including cure of souls, one mark above the old rate; for all others, the old rates; escape to another diocese is not permitted; the above to be enforced by ecclesiastical penalties.<sup>74</sup>

The next measure, the mandate of July, 1362, shows increased bitterness of language; priests are scarcely satisfied with double the old rates and are drowned in an abyss of voluptuousness, costly apparel, and shameless luxury, contrary to their vows and to apostolic doctrine. The maximum annual rates are now carefully specified: for priests with small cures, six marks; with large ones, seven marks; without cures, five marks.<sup>75</sup>

The opening paragraph of the second *Effrenata*, of November, 1362, is identical with that of the first, while the succeeding clauses reveal growing episcopal indignation: the covetous priests of modern times in their passion for voluptuous living refuse cures of souls, preferring to celebrate annals for the quick and the dead; pampered with exorbitant salaries, they discharge their intemperance in vomit and lust, become delirious with licentiousness, and finally drown themselves in an abyss of vice, to the great scandal of ecclesiasts and a most pernicious example to laymen.<sup>76</sup> The remedies provided for the speedy curing of this "pestilential disease" are almost identical with those of the earlier constitutions, compulsory acceptance of a cure of souls,<sup>77</sup> and the same maximum annual rates as in the July mandate, except that in the case of a "large cure" discretion is vested in the diocesan. The penalties for excess rates now correspond very closely to those of the wage clause of the ordinance of laborers:<sup>78</sup> "takers" are to forfeit to the church the amount of the "excess" and ecclesiastical "givers" double the amount; priests are forbidden to leave their diocese without "letters commendatory" from the bishop. Finally, by the parliamentary

<sup>74</sup> Note 59, *supra*.

<sup>75</sup> Note 60, *supra*.

<sup>76</sup> Note 64, *supra*.

<sup>77</sup> This clause is now more explicit: under threat of suspension, at the discretion of the diocesan or ordinary, non-beneficed chaplains are to be compelled to serve parish churches and chapels with cure of souls, if offered suitable salaries.

<sup>78</sup> Putnam, app., p. 10.

enactment, lay "givers" of illegal salaries are to forfeit to the king a sum equal to the entire amount paid.<sup>79</sup>

The third *Effrenata*, of 1378, opens by quoting the second and then after the significant phrase, "taking into consideration the circumstances of the time",<sup>80</sup> issues a schedule two marks higher than the rates of 1362: for priests with cures, eight marks; for cantarists, seven marks;<sup>81</sup> excommunication is now specified as the penalty.

In turning to the subject of administration of the four measures we find Islip setting an admirable example of promptness in his own diocese of Canterbury by sending to his commissary general for proclamation on Sundays and feast days a copy of the first *Effrenata* on May 29, 1350, the day after its issue.<sup>82</sup> For the province as distinct from the diocese the normal method is followed: the archbishop sends the *Effrenata* on May 28 to Bishop Stratford of London as dean of the province, with a request to enforce it in his own diocese, to make a list of runaway priests, and to inform the other bishops of its provisions; all reports are due before September 8.<sup>83</sup> Bishop Stratford's register is lost<sup>84</sup> but it appears that he acted with fair speed. The registers of Bath and Wells,<sup>85</sup> Exeter,<sup>86</sup> Hereford, Salisbury,<sup>87</sup> and Winchester contain the full text of the *Effrenata*, accompanied in every case except the last by a letter of Bishop Stratford, dated June 8. Bishop Trilleck of Hereford enrolls his return under date of August 31, and shows his zeal by informing the archbishop that even before the receipt of the *Effrenata*, he had called a synod of his clergy and by their advice and consent had decreed that priests should be satisfied with suitable salaries; he

<sup>79</sup> Note 65, *supra*.

<sup>80</sup> Note 69, *supra*. "Leges namque et Constitutiones convenire debent temporibus suis", Lyndwood, pt. I., p. 240, note m.

<sup>81</sup> The rates may be food, with 4 or 3 marks, respectively. Lyndwood considers that the phrase "animabus defunctorum" probably limits the application of the second schedule to cantarists for the dead, pt. I., p. 240, note n.

<sup>82</sup> Wilkins, III. 2: "Ejusdem mandatum aliud pro diocesa Cantuariensi de salariis capellulanorum". The diocesan jurisdiction of the archbishop is exercised through a commissary. Stubbs, "Report", p. xxi, quoted note 33, *supra*.

<sup>83</sup> Note 59, *supra*.

<sup>84</sup> Note 41, *supra*; but a later London register contains the complete document, preceded by a statement that a copy had been sent to Bishop Stratford. Reg. Sudbury, f. 142.

<sup>85</sup> *Reg. Ralph of Shrewsbury* (Somerset Record Society, X.), pp. 639-640.

<sup>86</sup> *Reg. John de Grandisson*, pt. II., pp. 1116-1118: "De stipendiis, presbyterorum". The editor's date of 1352 is clearly an error.

<sup>87</sup> *Reg. Wyvyl*, ff. 207-208: "Mandatum archiepiscopi ad compellendum capellanos ad deserviendum curis". The year is given as 1351 instead of as 1350.

now promises to compel obedience by ecclesiastical penalties.<sup>88</sup> Bishop Edendon of Winchester sends copies of the *Effrenata* on July 10 addressed to his official and to his two archdeacons or their officials, with urgent commands for enforcement and with a request for reports by August 15.<sup>89</sup>

The case of Lincoln shows the extreme punctuality demanded by the archbishop; on September 8, according to his register,<sup>90</sup> the very day after the reports were due, he writes to Bishop Gynwell, charging him with scornful and contemptuous disobedience of the provisions of the *Effrenata* (a copy of which he had received through the medium of the Bishop of London) and with failure in making his report. Islip adds that he will deal mercifully with Gynwell, merely requiring the report at a later date. The result is unfortunately not recorded on the Lincoln register for this year, but it seems probable that the incident is accounted for by the exemption from the jurisdiction of the archbishop secured by the Bishop of Lincoln through a papal bull.<sup>91</sup>

Islip's next step is a reproachful letter on February 18, 1352, to Bishop Stratford complaining that priests care more for money than for the safety of their souls and that in the diocese of London there is a particularly large number of runaway clergy, who are under ecclesiastical sentences for disobedience to the *Effrenata*.<sup>92</sup> Bishop Stratford is therefore urged to enforce the law more vigorously in his own diocese and to see that his fellow-suffragans do likewise in theirs; reports are called for before June 24. The registers of Bath and Wells<sup>93</sup> and Salisbury<sup>94</sup> contain Stratford's letters of April 2, enclosing the archbishop's mandate, dated curiously enough March 6 instead of February 18; while both docu-

<sup>88</sup> *Reg. Johannis de Trillek*, pp. 157-159: "Ordinacio domini archiepiscopi de stipendiis capellanorum".

<sup>89</sup> *Reg. Edyndon*, pt. II., f. 23: "Mandatum ad compellendum presbiteros ecclesiis parochialibus et curis animarum deseruire".

<sup>90</sup> Wilkins, III. 8: "Injunctio episcopo Lincolniensi . . . sed vos, spretis mandatis, et injunctionibus nostris hujusmodi vobis traditis, et per vos receptis, nobis in praemissis seu eorum aliquo parere, seu nos de hiis, quae in ea parte duxeritis facere, certificare non curastis, sed contemptibiliter omisistis." A similar letter to Gynwell on November 28 charges him with disobedience to another archiepiscopal command, *ibid.*, pp. 9-10.

<sup>91</sup> *Cal. Papal Letters*, III. 283, 433, 489; Hody, *Hist. English Councils and Convocations*, pt. III., p. 192.

<sup>92</sup> Wilkins, III. 15: "Archiepiscopi Cantuariensis mandatum ad compellendum presbyteros annualia celebrantes ut deservant ecclesiis curatis . . . Dudum propter insatiabilem capellanorum avaritiam." According to Gasquet there was in London a relatively larger number of unbefriended clergy than elsewhere, *The Black Death*, p. 203, note 1.

<sup>93</sup> *Reg. Ralph of Shrewsbury*, p. 693.

<sup>94</sup> *Reg. Wyvyl*, f. 208: "Mandatum super eodem . . ."

ments are enrolled on June 18 by the Bishop of Winchester, together with his promise to compel obedience on the part of his chaplains.<sup>95</sup> Although Bishop Grandisson of Exeter had sent copies to three of his archdeacons and to the official of his "peculiar" jurisdiction in Cornwall,<sup>96</sup> the result is clearly not satisfactory; on January 12, 1354, the bishop writes a voluminous epistle complaining that in spite of the public proclamations modern priests desert cures of souls for chantries, care more for feasting and taverns than for divine services—a most pernicious example to laymen—and also insist on exorbitant salaries. He bids his chief official and his archdeacons publish the law in their chapters with due solemnity and with threats of the greater excommunication, and send him the names of delinquents before February 22.<sup>97</sup> Bishop Gynwell of Lincoln still refrains from enrolling Islip's commands, but frames an ordinance of his own for compulsory service of their cures by chaplains at specified rates.<sup>98</sup> Islip's attempt to enforce his own mandate of 1352 in the diocese of Canterbury is combined with a sumptuary law for clerical clothes issued on October 30, 1353, addressed to his commissary general, to the official of his archdeacon, and to all the deans, and full of the usual complaints of the neglect of the ordinance.<sup>99</sup>

The constitution of July 16, 1362, as has already been stated, is apparently recorded only in Sudbury's London register, which also contains the later edition—the second *Effrenata*, of November 9, sent to the Bishop of London with the usual instructions for promulgation and a request for all reports before February 2, 1363.<sup>100</sup> The Bishop of Bath and Wells apparently did not receive a copy till January 19, and on February 16 forwarded it to the official of the Archdeacon of Wells, with the usual orders for publication.<sup>101</sup> Bishop Edendon of Winchester seems to have been

<sup>95</sup> Reg. Edyndon, pt. II., f. 25: "Certificacio mandati archiepiscopi ad punendum et compescendum capellanos in exaccione salarii excessivi".

<sup>96</sup> Reg. John de Grandisson, pt. II., pp. 1115-1116: "De capellanis, tam Parochialibus quam Annalibus". The date of Stratford's letter is April 6. For an account of "peculiars", see Stubbs, "Report", pp. xx-xxi.

<sup>97</sup> Register, pt. II., pp. 1139-1141: "Ad monendum Presbiteros stipendiarios ut consuetis stipendiis contentur". Cf. *ibid.*, p. 1150.

<sup>98</sup> Referred to in his register (vol. VIII., modern numbering), October 15, 1352, f. 23: "Monicio quod capellanus deserviat ecclesie de . . . juxta formam ordinacionis nostre alias generaliter super hoc facte . . . pro stipendiis per nos taxatis." A similar entry is enrolled on October 17.

<sup>99</sup> Wilkins, III. 29-31: "Archiepiscopi Cantuariensis ordinatio super honestate clericorum in apparatu et etiam super salario sacerdotum".

<sup>100</sup> Ff. 143-144; see pp. 18, 19, *supra*.

<sup>101</sup> Reg. Ralph of Shrewsbury, pp. 782-783. The date of the *Effrenata* is printed as December 1, 1352.

notified far more promptly; for on November 16 he sends copies to his two archdeacons,<sup>102</sup> ordering public proclamation in chapters and churches before clergy and laity and requesting reports before January 13.<sup>103</sup> On the Lincoln register there is enrolled in February, 1362—a few months earlier than either of Islip's measures of that year—a mandate of Bishop Gynwell, drawn up “with the advice, deliberation and consent of the chapter of Lincoln and of others learned in the law”: Because of the avarice of priests who follow in the footsteps of Baal and by unlawful covenants secure exorbitant salaries—specified maximum rates are to be proclaimed by the official of the Archdeacon of Lincoln in every session of his chapter and in all parish churches, and lists of delinquents are to be reported annually.<sup>104</sup>

The see was vacant during the autumn of 1362<sup>105</sup> but Bishop Bokyngham who succeeded Gynwell on June 25, 1363, grants a license early in 1364 permitting a chaplain to receive more than the usual salary “in spite of any constitution on the subject”,<sup>106</sup> and some months later obtains the appointment of a royal commission of oyer and terminer to investigate the assault made by chaplains on the parsons<sup>107</sup> who had been deputed to act as the bishop's commissaries in enforcing the second *Effrenata*. The chaplains, bound together by oaths, had broken up the parsons' sessions by horrible words, almost killing them and even lying in wait for the bishop himself.<sup>108</sup>

In the promulgation of the third *Effrenata*, there is a delay which I am unable to explain. Framed on November 16, 1378, it was sent ten days later to Bishop Courtenay of London—according to Archbishop Sudbury's register—with a request for a report before the following Easter;<sup>109</sup> yet the copies enrolled on the registers of

<sup>102</sup> Addressed to the archdeacons or their officials.

<sup>103</sup> Reg. Edyndon, pt. II., f. 48 (or 58): “Execucio mandati archiepiscopi contra sacerdotes in recipiendis salariis excedentes”.

<sup>104</sup> Reg. Gynwell (vol. VIII.), f. 186: “Constitutio de stipendiis capellorum”.

<sup>105</sup> Gynwell had died on August 5.

<sup>106</sup> Reg. Bukynham, f. 15: “Licencia pro salario capellani . . . non obstante constitucione”, January 2.

<sup>107</sup> “Parson” is equivalent to “rector”, according to Gasquet, *Parish Life*, p. 71.

<sup>108</sup> *Cal. Pat. Rolls*, 1364–1367, pp. 67–68, September 4. The riot occurred in the archdeaconry of Leicester.

<sup>109</sup> *Supra*, p. 20.

Ely,<sup>110</sup> Exeter,<sup>111</sup> Salisbury,<sup>112</sup> and Worcester<sup>113</sup> are dated Lambeth, September 6, 1379, and the accompanying letters of Bishop Courtenay, September 18, the return being called for before Christmas. Bishop Arundel of Ely reports on November 28 that he has published the *Effrenata* in a full diocesan synod and in other congregations of clergy; Bishop Erghum of Salisbury sends copies on October 8 to his four archdeacons,<sup>114</sup> with the usual instructions and a request for reports before November 30. Bishop Brantingham, now treasurer of England, sends a copy from London on October 4 to the Dean of Exeter Cathedral, explaining that difficult public business prevents him from giving his personal attention to the matter; therefore, he bids the dean publish the *Effrenata* in the cathedral with due solemnity, reporting to the bishop, or to his official, or to the president of the consistory court, before November 30, with a list of delinquents. Similar letters are sent to the four archdeacons.<sup>115</sup>

A summary of the evidence for the fourteen southern dioceses, allowance being made in each instance for missing registers and vacancies of sees, shows attempts at enforcement of the law in a little over half the possible cases:

- (I) The *Effrenata* of 1350—6 out of 11 possible times.<sup>116</sup>
- (II) The mandate of 1352—6 out of 10 possible times.<sup>117</sup>
- (III) The *Effrenata* of 1362—5 out of 10 possible times.<sup>118</sup>

<sup>110</sup> Reg. Arundell, f. 88: "Mandatum pro salariis presbiterorum provincie Cantuariensis". It is summarized in *Ely Diocesan Remembrancer*, vols. 1895–1897, p. 160.

<sup>111</sup> Reg. *Thomas de Brantingham* (ed. F. C. Hingeston-Randolph), pt. I., p. 405: "Pro salariis presbiterorum".

<sup>112</sup> Reg. Ergham, ff. 39–40: "Mandatum ad publicandum statutum editum a domino S[imone] Cantuariensi archiepiscopo et suffraganeis suis super salariis sive stipendiis presbiterorum percipiendis in provincia Cantuariensi".

<sup>113</sup> The day of the month is not indicated by Mr. Willis-Bund in his reference to a clerical wage-law of 1379 enrolled on Reg. Wakefield, f. 130; *Vict. County Hist., Worcester*, II, 33.

<sup>114</sup> Addressed to the archdeacons or their officials.

<sup>115</sup> For the references to the last three registers, see notes 110, 112, 113, *supra*.

<sup>116</sup> Bath and Wells, Canterbury, Exeter, Hereford, Salisbury, Winchester. Cf. also Sudbury's London register for a later date and Islip's controversy with the Bishop of Lincoln; *supra* p. 22, note 84; p. 23. The Chichester and London registers are missing; Worcester must be excluded.

<sup>117</sup> Bath and Wells, Canterbury, Exeter, Salisbury, Winchester, and probably Lincoln. For the missing registers, see note 116, *supra*; Rochester is *sede vacante* from May 4, 1352, to March 10, 1353.

<sup>118</sup> Bath and Wells, London, Winchester; for Lincoln, see *supra*, p. 25; for Canterbury, see note 156, *infra*. The Chichester and Ely registers are missing; Worcester must be excluded; the folios for 1362 are lost in the Exeter register (see *Reg. Grandisson*, pt. II., p. v; pt. III., p. lxxii).

(IV) The *Effrenata* of 1378—4 out of 10 possible times.<sup>119</sup>

From the administrative point of view the problem is this: Does the absence of a constitution from the folios of a given register prove that a bishop ignored its provisions? Several considerations point to a negative answer. In the first place, there is the merely mechanical detail that from the time of the great plague there was a change for the worse in the fullness of the make-up of registers; in fact, by the end of the Middle Ages registers normally contained little more than ordinations and institutions to benefices.<sup>120</sup> Secondly, for the fourteenth century, the registers of certain dioceses are far fuller than those of others; at the one extreme for my subject stand the Canterbury,<sup>121</sup> Bath and Wells, and Exeter registers, at the other extreme, come the Lichfield and Coventry<sup>122</sup> and Norwich registers, the latter being little more than "Institution Books".<sup>123</sup> Thirdly, the case of Lincoln shows that the argument *a silentio* is not conclusive.<sup>124</sup> Finally, since the authorities actually engaged in enforcing provincial constitutions are the bishops' officials, the archdeacons<sup>125</sup> and their officials, and more rarely the deans, rectors, vicars, etc., the full extent of their activities can be gauged only by a more exhaustive knowledge of the records of their proceedings than is yet at our command.

### III. *Conflict of Jurisdiction between the Secular Courts and the Courts Christian.*<sup>126</sup>

The contract clause of the ordinance of 1349, although undoubtedly designed to prevent manual laborers from deserting their masters before the end of their stipulated term, was held by Edward III.'s judges to apply to employees distinctly above the grade of laborers, to bailiffs, merchants, school-teachers, and at first even to

<sup>119</sup> Ely, Exeter, Salisbury, and Worcester. The Bath and Wells, Chichester, London, and Rochester registers are missing.

<sup>120</sup> *Reg. Grandisson*, pt. II., p. vi; pt. III., p. lxxix.

<sup>121</sup> Yet Islip fails to enroll his own mandate of July, 1362 (see *supra*, p. 18), and Wykeham's Winchester register so lauded by Stubbs (*Reg. Sacrum Anglicanum*, p. vii) omits the third *Effrenata*.

<sup>122</sup> If the printed abstracts are complete; see William Salt Archaeological Society, I., *Reg. Norbury*; VIII., new series, *Reg. Stretton*.

<sup>123</sup> The registers of Bateman, Percy, and Spenser.

<sup>124</sup> *Supra*, p. 23.

<sup>125</sup> For the relative powers of archdeacons and of the bishops' officials, see Lyndwood, pt. I., p. 239, note e; Ollard and Crosse, pp. 154–159. The president of the consistory court is mentioned once, *supra*, p. 26.

<sup>126</sup> For conflicts between Church and State in the fourteenth century, see Stubbs, *Const. Hist.*, vol. III., ch. XIX., and Holdsworth, *History of English Law*, II. 251–255.

chaplains.<sup>127</sup> Fitz Herbert, writing in the sixteenth century, states specifically that "gentlemen, chaplains, or carpenters" while not liable under the compulsory service clause can be sued in the king's courts for breach of contract.<sup>128</sup> He thus completely ignores the striking change of legal opinion as to chaplains that occurred toward the end of Edward's reign. An exceedingly condensed year-book report of 1372 contains the statement that a retainer to chant masses does not come under the ordinance of laborers, while the report and record of another case in the court of common pleas in 1376 fortunately preserve a rather full discussion.<sup>129</sup> On the one side, it is urged that the ordinance applies only to laborers and artificers and that the chaplain is neither, but a servant of God; he is not, like a laborer, bound to serve but can stop singing masses for a week at a time if he please; jurisdiction over him belongs to his ordinary and not to the king's court, since there is no mention of chaplains in the ordinance of laborers. On the other side, it is pleaded that a parochial chaplain may be considered a laborer, even if other chaplains are not, since he has many duties besides chanting masses, namely, visiting the sick, administering the sacraments to them, and assisting parsons. In spite of this last plea, the judgment is against the jurisdiction of the royal courts<sup>130</sup> and establishes a precedent that was followed during the next century.<sup>131</sup> If we are to believe the complaints of the Commons, the courts Christian go still further and under the pretext of a right to all cases of *laesio fidei* are dealing with pleas concerning laborers and artificers under the new statute.<sup>132</sup>

Another topic on debatable ground is clerical extortion: presentations before the king's bench show archdeacons and other ecclesiasts persistently charging enormous sums for wills<sup>133</sup> and at least one instance of a vicar refusing to perform marriage ceremonies except for exorbitant fees.<sup>134</sup> Extortion in this sense how-

<sup>127</sup> Putnam, pp. 78, 179-199, app., p. 9.

<sup>128</sup> Cf. *ibid.*, p. 180, note 2, for the full quotation from *New Natura Breuim*.

<sup>129</sup> Putnam, pp. 188-189, app., pp. 432-437. The record of the latter case is dated Easter term, the report Trinity term.

<sup>130</sup> "Belknap . . . il nous est avis et a nous compagnons de bank le Roy auxy, que n'est lie per statute, come auter person est." *Ibid.*, app., p. 433.

<sup>131</sup> Reeves, *History of English Law*, II. 247: "Of course it was held that such persons [i. e. chaplains] were not within the statute"; cf. also *ibid.*, p. 275, and Putnam, p. 180.

<sup>132</sup> *Rot. Parl.*, II. 319; cf. Holdsworth, II. 252.

<sup>133</sup> *Rot. Parl.*, II. 230, 305, 376; III. 43; *Cal. Pat. Rolls*, 1350-1354, p. 228; Capes, p. 240. The case of John Evot, archdeacon of Bucks, is well worth study; see my article on "Ancient Indictments" in *Eng. Hist. Review*, XXIX.

499.

<sup>134</sup> Putnam, app., p. 171.

ever is not strictly a part of my present subject, while extortion in the wider sense of excessive clerical salaries seems clearly to belong to the courts Christian except in the case of the punishment of lay "givers" of excess, apparently reserved to the king's courts by the statute of 1362.<sup>135</sup> It is therefore a surprise to find clear evidence of the usurpation of jurisdiction by the secular courts both before and after 1362. In 1354 the Chester justices of laborers listen to a presentment of chaplains for receiving "superfluous salary".<sup>136</sup> During Trinity term, 1363, the justices of the king's bench hear indictments from Bristol, Gloucester, and neighboring places against hundreds of chaplains charged with receiving "excess salaries contrary to the statute". One example must suffice: The great inquest states that all the chaplains celebrating annals and all parochial chaplains in the town of Gloucester are taking excess salaries and that their names are not known. Therefore they are instructed to make inquiries on behalf of the king from the bailiffs of said town and to report on all the names both of givers and of takers. And they say that according to a rough estimate there are sixty chaplains celebrating [annals] in said town.<sup>137</sup>

It seems probable that these Gloucestershire indictments had not gone unchallenged by the courts Christian; for in 1376 the Commons petition that the king's justices shall be empowered to punish all offenders against clerical wage-laws, both "takers" and "givers", and that double the excess shall be forfeited to the king.<sup>138</sup> In spite of the case in the court of common pleas perhaps being argued at just the same time,<sup>139</sup> the Commons claim that clerical salaries are a matter of contract and that all contract belongs to the royal courts.<sup>140</sup>

In considering the ecclesiastical legislation as a whole the close analogies to the principles of the secular legislation are worthy of

<sup>135</sup> *Supra*, pp. 21–22.

<sup>136</sup> Putnam, app., p. 147.

<sup>137</sup> Ancient Indictments 29, m. 38; there are a number of membranes containing similar presentments. The court of king's bench sits at Gloucester, Bristol, Newport, and Worcester during this term; see my article quoted in note 133, *supra*, p. 503. For the peculiar relation of the mayor of Bristol to the appointment of chantry priests, see Ricart, *The Maire of Bristowe is Kalendar* (ed. L. T. Smith, Camden Soc., new series, V.), pp. 76–77, and *The Little Red Book of Bristol* (ed. F. B. Bickley), I. xxix–xxxii, 114, 195–198, 210, 215.

<sup>138</sup> *Rot. Parl.*, II. 368. Cf. *ibid.*, IV. 121, for a similar petition in the reign of Henry V.

<sup>139</sup> The Good Parliament sat from April 28 to July 6 (Stubbs, *Const. Hist.*, fourth ed., II. 448–449) and the case referred to (*supra*, p. 28) was argued in Easter term of that year, that is, between April 30 and May 26.

<sup>140</sup> Unwin records the indictment in a spiritual court of a craftsman for breach of sworn agreement with his fellows, pp. 92, 108.

note. The endeavor to check the mobility of the laborer<sup>141</sup> is paralleled by the restriction on the migration of chaplains,<sup>142</sup> the episcopal "letters commendatory" reminding one strongly of the "letters testimonial" devised later for laborers.<sup>143</sup> Although the secular compulsory service clause was held not to apply to priests,<sup>144</sup> there is an ecclesiastical compulsory service clause for the unbenediced clergy,<sup>145</sup> so far-reaching in its consequences as to raise doubts in the mind of the great canonist. Lyndwood finally concludes that in dire need members of religious houses and even the private chaplains of great men may be forced to serve parish churches—provided that a higher or at least an equal salary be offered.<sup>146</sup> The importance of the clause is shown by the fact that in several registrars the marginal heading is: "A mandate to compel priests to serve cures of souls", instead of the more usual: "Concerning priests' salaries".<sup>147</sup> The question of contract is of course involved in the maximum wage laws; just as the statutory rates technically prohibited masters and servants from entering into contracts to raise wages,<sup>148</sup> so the canonical rates prevented chaplains from bargaining for increased salaries.<sup>149</sup>

As for the equity of the clerical wage-laws and for their probable effectiveness, the problem is in my judgment even more complex than that of the secular wage-laws and can by no means be solved at present; but a few points may be emphasized. In accordance with the prevailing orthodox economic theory of reasonable or just price—itself the creation of churchmen<sup>150</sup>—the Church

<sup>141</sup> Putnam, pp. 74, 154–157, 160, 181, 222.

<sup>142</sup> *Supra*, p. 21. Although the statutes of laborers do not interfere with the movements of chaplains (*cf.* Holdsworth, II, 384), it is clear that the latter are by no means free to migrate without permission.

<sup>143</sup> *Statutes of the Realm*, II, 56, 12 R. II., c. 3.

<sup>144</sup> *Supra*, p. 28.

<sup>145</sup> *Supra*, p. 21.

<sup>146</sup> Pt. I., p. 239, note c. Johnson claims that Lyndwood proves his thesis from canon law which he says is of greater authority than provincial councils and adds that though Lyndwood's references do not prove it, yet his opinion prevailed. *A Collection of the Laws and Canons of the Church of England*, I, 423.

<sup>147</sup> For the first type, see notes 87, 89, 92, 98; for the second, see notes 64, 69, 82, 86, 88, 95, 97, 103, 104, *supra*. Occasionally the two are combined, note 59.

<sup>148</sup> Putnam, pp. 75, 154–163, 177–179, 189–199.

<sup>149</sup> "Nullatenus ex pacto ultra id percepturi", *Effrenata* of 1378, Wilkins, III. 135; "ultra septem marcas nullo modo conveniat", Islip's mandate of 1353, *ibid.*, p. 29. Cf. Bishop Langham's prohibition against agreements to increase salaries by extra fees, *Acta Synodi a Simone Langham episcopo Eliensi habitae*, *ibid.*, III. 60. Lyndwood's phraseology shows that previously clerical salaries had often been regulated by agreement: "ex pacto", "ex conventione sive pacto", pt. I., p. 238, note a, p. 240, note q.

<sup>150</sup> A convenient summary is given by Ashley, *English Economic History*, vol. I., ch. III.

had endeavored some years before the plague to secure a minimum wage for the clergy, in order that they should not beg, to the disgrace of their order, or be forced to be clad in unsuitable garb.<sup>151</sup> Then came the economic crisis after the Black Death: instead of the customary salaries of 5 marks (or even 4) for a chaplain with cure of souls or of 60 shillings or less for a cantarist, the rates demanded varied from 7 to 12 marks, occasionally even 10 pounds, or to put it roughly, were often more than double the old rates.<sup>152</sup> Just how much the rise was justified by the increased cost of living remains to be proved;<sup>153</sup> as does the chronicler's statement that the enforcement of the lower rates compelled priests to steal.<sup>154</sup> As an argument for the futility of the restriction may be cited the fact of the increased rates legalized by Sudbury's *Effrenata*<sup>155</sup> or of the issue of licenses by bishops, even by Archbishop Islip, sanctioning higher rates in special instances.<sup>156</sup> The threatened departure of an Oxford chaplain in 1350 unless he could secure the amount demanded may prove the necessity of such licenses.<sup>157</sup> It is well also to note that the ecclesiasts by their phraseology often show a full recognition of the exigencies of the situation and that the Bishop of Ely in 1364 records his anxiety for the suitable payment of priests.<sup>158</sup> Only a statistical study can help us to decide whether we should join Islip and Sudbury, Gower,<sup>159</sup> and the author of Piers the Plowman<sup>160</sup>

<sup>151</sup> At the council of Oxford, 1222, Wilkins, I. 587; at the synod of Exeter, 1287, *ibid.*, II. 147. Cf. Richardson, pp. 89, 91, 113–115, and Lyndwood, pt. I., pp. 64, 65.

<sup>152</sup> For figures see Knighton (Rolls Series), II. 63; *Reg. Grandisson*, I. 1139; *Reg. Gynwell* (vol. VIII.), f. 186; mandate of July, 1362, p. 21, *supra*; Rogers, *Hist. of Agriculture and Prices*, II. 576, 579; Richardson, p. 89, note 1; Capes, p. 29; *Rot. Parl.*, II. 271.

<sup>153</sup> Cf. Stubbs, *Const. Hist.* (ed. Petit Dutaillis, app. on "Causes du Soulèvement de 1381"), II. 867–868; also Tait's edition of John of Reading, pp. xi, 302.

<sup>154</sup> *Ibid.*, p. 154: "Quod plures furari coegerit ac praedari"; cf. also Walsingham, *Hist. Anglicana* (Rolls Series), I. 297.

<sup>155</sup> *Supra*, p. 22.

<sup>156</sup> Islip sanctioned higher rates in his own diocese than elsewhere in the southern province, note 99, *supra*. His first license was issued on November 27, 1362, just after the framing of the second *Effrenata*: Register, f. 189. Cf. Reg. Edyndon, pt. I., ff. 128–130; Reg. Archbishop Whittlesey, ff. 87–90. In the diocese of London, there is evidence for obedience to the constitution of 1362, *Calendar of the Letter Books of the City of London*, *Letter Book G*, p. 151.

<sup>157</sup> Rogers, II. 615, quoted by Richardson, p. 116; cf. *ibid.*, p. 112.

<sup>158</sup> Reg. Islip, f. 189: "Tamen post ordinacionem predictam tanta victualium caristia et raritas supervenit . . . ac praeципue in civitate Londonie [ut] de summa predicta capellani predicti . . . nequeunt commode sustentari"; Reg. Bukynham, quoted in note 106, *supra*: "Attendentes iustum esse et conforme rationi quod illi qui plus laborant plus de mercede recipere mereantur"; Richardson, p. 116.

<sup>159</sup> The denunciations of the prelates and of the poets are extraordinarily similar. The third book of *Vox Clamantis* contains serious charges against the

in denouncing the avarice of the unbeneficed clergy, especially the chantry priests, or whether in a century in which the wealth of the higher clergy has been attacked by reformers,<sup>161</sup> we should find it somewhat ironic that pluralist<sup>162</sup> princes of the church should preach apostolic poverty to their chaplains.<sup>163</sup>

My concluding word is a suggestion in regard to the Great Revolt. It seems possible that the irritation caused in the minds of multitudes of the lower clergy by the restrictive measures imposed on them arbitrarily by their wealthy superiors may account in part at least for the presence of so many of them among the rebels.<sup>164</sup> Was Archbishop Sudbury's fate retribution for the last *Effrenata*?

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secular clergy. One example must suffice: "Postquam dictum est de errore illorum qui in ecclesia beneficiati existunt, iam dicendum est de presbiteris stipendiariis . . .

Hos velut artifices cerno peditare per urbes,  
Conductos precio sicut asella foro".

*Latin Works* (ed. Macaulay), p. 149.

<sup>160</sup> Text A (ed. Skeat), "Prologue", lines 80-83:

"Persones and parisch prestes playneth to heore Bisschops,  
That heore parisch hath ben pore seth the Pestilence tyme,  
And asketh leue and lycence at Londoun to dwelle,  
To singe ther for Simonye for seluer is swete."

Cf. Chaucer, Prologue to *Canterbury Tales*, lines 507-510 (ed. Gilman):

"He sette nat his benefice to hyre,  
And leet his sheepe encombred in the myre,  
And ran to Londoun un-to Saint Poules  
To seken hym a chauntrie for soules."

<sup>161</sup> Stubbs, *Const. Hist.*, II. 440-442; Hunt, *The English Church in the Middle Ages*, p. 209.

<sup>162</sup> See papal mandates to Archbishop Langham, *Cal. Papal Letters*, IV. 12, 25, and Reg. Langham, *passim*.

<sup>163</sup> The attempts at restriction did not end with the fourteenth century, cf. *Rot. Parl.*, IV. 51-52, 121; *Statutes of the Realm*, II. 188, 2 Henry V., st. 2, c. 2; Wilkins, III. 213-214, 402-403.

<sup>164</sup> See Petit Dutaillis, *ubi supra*, note 153.